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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,319	02/05/2002	Alan F. Savicki	492.216	3711

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EXAMINER

BRITTAIN, JAMES R

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 11/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/049,319

Applicant(s)

SAVICKI, ALAN F.

Examiner

James R. Brittain

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 13, 14, 16, and 17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Stolmeier et al. (US 5871281).

Stolmeier et al. (Figures 3-7) teach closure device, comprising: first and second interlocking fastening strips arranged to be interlocked over a predetermined X axis between first and second ends, the fastening strips being secured together at the first and second ends; a slider 21 slidably disposed on the fastening strips for movement between the first and second ends, the slider facilitating occlusion of the fastening strips when moved towards the first end, the slider including a separator 34 for facilitating the deocclusion of the fastening strips when the slider is moved towards the second end; and the first fastening strip includes a first flange portion which extends inward toward

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the second fastening strip, a first altered flange portion defined by the notches 37, 38 near the first end of the first fastening strip that receive the separator 34. As to claims 5-8 and 10, the method steps of "flattening" and "removing" don't create a finished article of a different structure than that shown by Stolmeier et al. and the device of Stolmeier et al. is fully capable of having the final product structure created by a flattening or removal of material. Applicant has shown no characteristic from these processes that would create a different product from that taught by Stolmeier et al.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stolmeier et al. (US 5874281) in view of Porchia et al. (US 5664299).

Stolmeier et al. (Figures 3-7) teach closure device, comprising: first and second interlocking fastening strips arranged to be interlocked over a predetermined X axis between first and second ends, the fastening strips being secured together at the first and second ends; a slider 21 slidably disposed on the fastening strips for movement between the first and second ends, the slider facilitating occlusion of the fastening strips when moved towards the first end, the slider including a separator 34 for facilitating the deocclusion of the fastening strips when the slider is moved towards the second end; and the first fastening strip includes a first flange portion which extends inward toward

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the second fastening strip, a first altered flange portion defined by the notches 37, 38 near the first end of the first fastening strip that receive the separator 34. The differences are that the closure elements are not both U-channel elements. However, Porchia et al. (Figures 1, 2) teaches that it is conventional to utilize interengaging U-channel elements 16, 17 so as to better secure the fastening strips together. It would have been obvious to modify the closure device of Stolmeier et al. so that the closure elements are both U-channel elements in view of Porchia et al. (Figures 1, 2) teaching that it is conventional to utilize interengaging U-channel elements 16, 17 so as to better secure the fastening strips together.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stolmeier et al. (US 5874281) in view of Herrington (US 5007143).

Stolmeier et al. (Figures 3-7) teach closure device, comprising: first and second interlocking fastening strips arranged to be interlocked over a predetermined X axis between first and second ends, the fastening strips being secured together at the first and second ends; a slider 21 slidably disposed on the fastening strips for movement between the first and second ends, the slider facilitating occlusion of the fastening strips when moved towards the first end, the slider including a separator 34 for facilitating the deocclusion of the fastening strips when the slider is moved towards the second end; and the first fastening strip includes a first flange portion which extends inward toward the second fastening strip, a first altered flange portion defined by the notches 37, 38 near the first end of the first fastening strip that receive the separator 34. The difference is that the closure elements are not rolling action type fastening strips. However,

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Herrington (Figures 4-7) teaches that it is conventional to utilize interengaging rolling action type elements 16, 17 so as to better secure the fastening strips together. It would have been obvious to modify the closure device of Stolmeier et al. so that the closure elements are rolling action type elements in view of Porchia et al. (Figures 4-7) teaching that it is conventional to utilize rolling action type elements 16, 17 so as to better secure the fastening strips together.

### ***Conclusion***

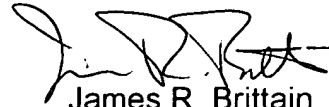
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Siegel (DE 3208245) teaches pertinent closure structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on Monday - Friday from 5:30 to 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to read 'J. R. Brittain', with a stylized flourish at the end.

James R. Brittain  
Primary Examiner  
Art Unit 3677

JRB  
November 25, 2002